



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/539,925	06/16/2005	Hartmut Flaig	05-409	8395
34704 7590 04/18/2011 BACHMAN & LAPOINTE, P.C. 900 CHAPEL STREET SUITE 1201 NEW HAVEN, CT 06510				
EXAMINER				
SAUTHER, FLEMING				
ART UNIT		PAPER NUMBER		
3677				
MAIL DATE		DELIVERY MODE		
04/18/2011		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/539,925

**Applicant(s)**

FLAIG, HARTMUT

**Examiner**

Flemming Saether

**Art Unit**

3677

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 February 2011.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 37-73 is/are pending in the application.
- 4a) Of the above claim(s) 47-72 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 37-46 and 73 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-040)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB-08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

***Election/Restrictions***

Claims 47-72 remain in this application as withdrawn.

***Claim Rejections - 35 USC § 102/103***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 37-40 and 73 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over the Japan patent 57-151246 (Japan '246). Japan '246 discloses a screw plug (1) which is made of metal as indicated by the cross hatching in Fig. 3 and 4 and by the method in which its made (Fig. 5); the plug includes a cylindrical shank (1a) with a thread having a tapered end (shown as not non-cross hatched portion of the shank); a top plate (1b) with a polygonal blind hole (5); a further blind hole (2) coaxial with the blind hole located at an opposite end face; a straight-walled conical beveled portion is shown between the shank and the top plate at an angle of *about* 30 degrees and where it can be seen that the threads

extend radially beyond the starting line of the beveled portion and inherently would begin adjacent the beveled portion in order to be operational. While it is logical that the plug disclosed in Japan '246 is to be used as a drain plug for oil based on its configuration and as such would have the dimensions claimed. However, this cannot be for certain since the document has not yet been translated. Therefore, it would have been obvious for one of ordinary skill in the art to combine the plug of Japan '246 with an oil container because based on its configuration, the skilled artisan would assume it is for that purpose.

Claims 41-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Japan '246 as applied to claim 37 above, and further in view of Turkish (US 2,542,377). Japan '246 does not disclose the further blind bore having an end wall tapering to an axis. Turkish discloses a plug with a further bore (24) wherein the further bore has an end which tapers to the axis. At the time the invention was made, it would have been obvious for one of ordinary skill in the art to have the further blind bore of Japan '246 taper to the axis as shown in Turkish because such a shape would be the result of the formation of the further bore with a convenient tool such as a drill tip. Again, the claimed size would have been known because it is known to make plugs in different sizes depending upon a particular application thus the size of the depth and diameter of the further bore would have been realized with an appropriately sized plug.

Claims 44-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Japan '246 as applied to claim 37 above, and further in view of Berger (US 4,373,561). Japan '246 does not show the further blind bore to have an inner and outer bevel at the tube edge. Berger also discloses a plug with a further blind bore but Berger shows the further blind bore with inner (104) and outer (not labeled) beveled edge; the outer leading to a thread. At the time the invention was made, it would have been obvious for one of ordinary skill in the art to provide the plug of Japan '246 with an inner and outer beveled edges as disclosed in Berger so as to avoid sharp edges to make the plug more user friendly.

#### ***Claim Rejections - 35 USC § 102***

Claim 38 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Berger (US 4,373,561).

#### ***Response to Remarks***

Applicant's arguments have been considered and are agreed with however, they are now moot in view of the new grounds of rejection.

#### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. See MPEP § 706.07(a). And, applicant's submission of an

information disclosure statement under 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p) on 10/4/2010 also prompted the new ground(s) of rejection presented in this Office action. See MPEP § 609.04(b). Accordingly, **THIS ACTION IS MADE FINAL**. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Flemming Saether whose telephone number is 571-272-7071. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Victor Batson can be reached on 571-272-6987. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Flemming Saether  
Primary Examiner  
Art Unit 3677

/Flemming Saether/  
Primary Examiner, Art Unit 3677